

HOUSE BILL REPORT

HB 2212

As Reported by House Committee On: Local Government

Title: An act relating to addressing the application of the growth management act to certain agricultural activities occurring on agricultural lands.

Brief Description: Addressing the application of the growth management act to certain agricultural activities occurring on agricultural lands.

Sponsors: Representatives Blake, B. Sullivan and Newhouse.

Brief History:

Committee Activity:

Local Government: 2/22/07, 2/27/07 [DPS].

Brief Summary of Substitute Bill

- Specifies legislative intent pertaining to preserving agricultural lands.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Simpson, Chair; Eddy, Vice Chair; Curtis, Ranking Minority Member; Schindler, Assistant Ranking Minority Member; B. Sullivan and Takko.

Staff: Ethan Moreno (786-7386).

Background:

The Growth Management Act (GMA) is the comprehensive land use planning framework for county and city governments in Washington. Enacted in 1990 and 1991, the GMA establishes numerous requirements for local governments obligated by mandate or choice to fully plan under the GMA (planning jurisdictions) and a reduced number of directives for all other counties and cities. Twenty-nine of Washington's 39 counties, and the cities within those counties, are planning jurisdictions.

Planning jurisdictions must adopt internally consistent comprehensive land use plans, which are generalized, coordinated land use policy statements of the governing body. Comprehensive

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plans must address specified planning elements, each of which is a subset of a comprehensive plan. Planning jurisdictions must also adopt development regulations that implement and conform with the comprehensive plan.

The GMA includes certain designation and conservation requirements for natural resource lands. All local governments must designate, where appropriate, agricultural, forest, and mineral resource lands of long-term significance in areas not already characterized by urban growth. "Agricultural land," a subset of natural resource lands, is defined by the GMA to include land primarily devoted to the commercial production of specified products, such as horticultural, viticultural, floricultural, vegetable, or animal products. Planning jurisdictions are subject to additional requirements and must adopt development regulations conserving designated agricultural and other natural resource lands.

The GMA also requires all local governments to designate and protect critical areas. These protection requirements obligate counties and cities to adopt development regulations meeting specified criteria. As defined by the GMA, critical areas include wetlands, aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas.

Summary of Substitute Bill:

Legislative intent pertaining to preserving Washington's agricultural lands is expressed.

Substitute Bill Compared to Original Bill:

All provisions of the underlying bill are removed and replaced with legislative intent.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) Our agricultural lands are facing a crisis. This bill is another idea that can start a discussion about preserving working agricultural lands. Farmers will soon be making decisions about keeping or selling their lands out of fear.

(With concerns) Virtually all of us have some connection to agriculture in this state. The environmental community is committed to working with the agricultural community. Use of a mediator, such as the Ruckelshaus Center, is a preferred solution. The timing of this bill is too slow. Support exists for legislation that would be jointly developed. Support exists for facilitator-based conversations after session.

The current protections for critical areas have been ineffective and have negatively affected treaty rights and other matters. There are ongoing challenges in the courts pertaining to critical areas and implementing this legislation might be difficult.

The Ruckelshaus Center is designed to help people work through disputes by identifying and assessing issues and working through a process that will help resolve disputes. The Legislature has a role to play in the Ruckelshaus Center by establishing an arena for dispute resolution. This bill is not drawn in a way that is conducive to success and working through a difficult process in good faith. This bill needs to be modified for the arena to be properly established. The Ruckelshaus Center has been asked to examine resolutions related to Initiative 933 through collaborative processes.

The intent behind this bill is appreciated. Agricultural lands, fish, and buffers are all critically important. The Northwest Indian Fisheries Commission is committed to working with other parties and the Legislature to find a win/win solution to these issues.

The balance between critical areas ordinances and agricultural lands has been difficult to achieve. Concerns exist about the mechanics of the bill, including its retroactive/prospective provisions.

(Opposed) This bill will provide too much regulation. Farming is economically marginal, and farmers need regulatory relief.

The threat to impose buffers has once again raised its ugly head. The impact of buffers may make farming financially unviable. Buffers are a taking and scientifically do not prove to be the solution. Farm plans already must be developed according to specific requirements and counties should not be included in developing or approving plans as they do not have the expertise to perform this function. Farm plans are expensive to draw up and they are complicated. These plans contain very private and specific information and the thought of making them public is almost criminal. Watershed planning would be a more effective approach to enhancing water quality. Watershed planning and conservation districts should receive more funding.

Futurewise is committed to working with the agricultural community to find long-term solutions to these long-simmering issues. This bill is not as blunt as others, but it would preclude the possibilities of productive interim discussions. Allowing the use of an approved farm plan may be an acceptable approach to solving these issues, as some counties have already adopted this approach, but this bill would reduce flexibility.

Balancing critical areas ordinances with agricultural activities is vital. Everyone enjoys the benefits of clean drinking water, flood control, et cetera, but no one wants to pay the price of regulations that achieve these benefits. This bill is too complex and will not solve the underlying issues.

The Ruckelshaus Center should be used to develop collaborative solutions to the difficult problems this bill addresses. Farmers are in a difficult predicament. This bill, however, has a predetermined solution and that is not the best approach toward finding a resolution.

Adamant opposition to this bill exists. The bill represents a work in progress. If a solution is not found, farmers will continue to subdivide their lands into the smallest possible divisions to protect their capital. Farmers are being asked to shoulder a disproportionate burden. Farmland is developed - not with buildings, but it is developed. Buffers take private land out of control from private citizens. This bill will not produce good results and may lead to revolt. Farm plan exemption disclosures were earned through years of legislative effort and this bill would be an inappropriate reversal of those efforts.

The components of this bill turn farm plans into a statutory hammer. This bill sends the wrong message to people who are trying to do the right thing. This bill will turn counties into farm managers; it's hard enough to get building permits from counties and they're not qualified to make decisions on farming practices.

We have a problem, but we also have common ground, as the people testifying on this bill have all been opposed to the inappropriate conversion of farmland. A different solution process that includes working with agricultural and conservation stakeholders would be more appropriate than those of this bill.

The Ruckelshaus Center needs to be funded. The task force provision of this bill needs to be drafted in a way that won't ensure failure. Farmers are trying to determine whether to subdivide their land now or to wait for the adoption of critical areas ordinances. They are, however, taking the money today, so there are consequences if nothing is done. We need a time-out to give farmers a break or we will lose farmland.

The Farm Bureau is not opposed to discussions, but if discussions are the solution, farmland will be lost. Mandated buffers will prohibit farmers from receiving revenues they currently receive for voluntary conservation measures. Previous discussions have not changed measures that hamper farmers in their efforts to keep farmers farming. More discussion is part of the solution, as specific goals and time frames for solutions should be set. The Legislature needs to extend the current protections for legal agricultural activities on agricultural lands that exists under the Shoreline Management Act to the GMA. Action is needed now, because buffers are being considered for 2007 and 2008.

Persons Testifying: (In support) Representative Blake, prime sponsor.

(With concerns) Joe Ryan, Washington Environmental Council/ Washington Conservation Voters; Marty Lesch, Swinomish Tribe; Steve Robinson, Northwest Indian Fisheries Commission; Leonard Bauer, Department of Community Trade, and Economic Development; Bill Ruckelshaus, William D. Ruckelshaus Center University of Washington/Washington State University; and Eric Johnson, Washington State Association of Counties.

(Opposed) Roger Short, North Olympic Farm Bureau; Terry Willis; Kaleen Cottingham, Futurewise; Gayle Broadbent, Adams Cove Group; Bill Robinson, The Nature Conservancy; Chris Cheney, Washington Fryer Commission, Hop Growers of Washington; Heath Packard, Audubon; Jay Gordon, Washington State Dairy Federation; Dan Wood, Washington State Farm Bureau; and Jack Field, Washington Cattlemen's Association.

Persons Signed In To Testify But Not Testifying: None.